

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

SUMMARY ORDER

**THIS SUMMARY ORDER WILL NOT BE PUBLISHED IN THE FEDERAL REPORTER AND MAY NOT BE CITED AS PRECEDENTIAL AUTHORITY TO THIS OR ANY OTHER COURT, BUT MAY BE CALLED TO THE ATTENTION OF THIS OR ANY OTHER COURT IN A SUBSEQUENT STAGE OF THIS CASE, IN A RELATED CASE, OR IN ANY CASE FOR PURPOSES OF COLLATERAL ESTOPPEL OR RES JUDICATA.**

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 14th day of August, two thousand and six.

PRESENT:

HON. CHESTER J. STRAUB,  
HON. ROSEMARY S. POOLER,  
HON. ROBERT D. SACK,  
*Circuit Judges.*

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WILLIAM B. BOISE,

*Plaintiff-Appellant,*

-v.-

NEW YORK UNIVERSITY,

*Defendant-Appellee.*

**SUMMARY ORDER**  
No. 05-6793-cv

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APPEARING FOR APPELLANT: WILLIAM B. BOISE, *pro se*, New York, New York.

APPEARING FOR APPELLEE: ADA MELOY, New York, New York.

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Appeal from a final decision of the United States District Court for the Southern District of New York (Robert W. Sweet, *Judge*).

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AFTER ARGUMENT AND UPON DUE CONSIDERATION, IT IS ORDERED, ADJUDGED, AND DECREED that the judgment of the District Court is hereby **AFFIRMED**.

Plaintiff-appellant William B. Boise, *pro se*, appeals from the judgment of the United States District Court for the Southern District of New York (Robert W. Sweet, *Judge*), granting summary judgment in favor of defendant-appellee New York University (NYU). We assume familiarity with the facts, the procedural history, and the issues on appeal.

We review a district court's grant of summary judgment *de novo*, construing the evidence in the light most favorable to the non-moving party. *See Miller v. Wolpoff & Abramson, L.L.P.*, 321 F.3d 292, 300 (2d Cir. 2003). For substantially the reasons set forth by the District Court in its opinion, we conclude that summary judgment was appropriate. Boise's mere speculation was insufficient to permit a reasonable inference that NYU's proffered reasons for revoking Boise's tenure and terminating his employment were illegitimate or, otherwise, pretexts. *See McPherson v. New York City Dept. of Educ.*, \_\_\_F.3d\_\_\_, 2006 WL 1967033, at \*3 n.4 (2d Cir. July 13, 2006) (noting that speculation alone is insufficient to defeat a properly supported motion for summary judgment).

We decline to consider Boise's due process challenge to his tenure revocation proceedings. Since, as a general rule, we will not consider an issue raised for the first time on appeal, we decline to address this claim because it was not raised before the District Court. *See U.S. Fire Ins. Co. v. Nat'l Gypsum Co.*, 101 F.3d 813, 817 (2d Cir. 1996). And, this case does not present the manifest injustice or the type of purely legal issue that would lead us to disregard the general rule. *See id.* Finally, as Boise has not demonstrated a likelihood of success on the merits of his appeal, we deny his motion for a preliminary injunction and temporary restraining order. *See Forest City Daly Housing, Inc. v. Town of N. Hempstead*, 175 F.3d 144, 149 (2d Cir.

1999).

The judgment of the district court is hereby **AFFIRMED**, and Boise's motion for a preliminary injunction and temporary restraining order is **DENIED**.

FOR THE COURT:  
Roseann B. MacKechnie, Clerk

By: \_\_\_\_\_

Date: \_\_\_\_\_